

AN ACT

ENTITLED, An Act to provide for recovery of motor fuel theft.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That chapter 22-30A be amended by adding thereto a NEW SECTION to read as follows:

The owner of a motor vehicle who has not paid for the motor fuel received is liable to the motor fuel retailer for the cost of the motor fuel. If notice of a service charge is conspicuously displayed on the premises when the motor fuel was received, the motor fuel retailer may impose a service charge not to exceed thirty dollars for any collection cost.

Section 2. That chapter 22-30A be amended by adding thereto a NEW SECTION to read as follows:

If a motor fuel retailer provides, in writing, the license plate number of any motor vehicle owner who failed to pay for the motor fuel received to any law enforcement officer, the law enforcement officer shall provide the motor vehicle owner's name and addresses, recorded pursuant to § 32-5-3, to the retailer. The written request for the vehicle owner information may only be submitted by the registered owner or corporate officer of the motor fuel business. The owner or corporate officer shall enclose a self-addressed and stamped envelope with the written request. The format for the request shall be prescribed by the Department of Public Safety and include the following information:

- (1) The name and signature of the employee witnessing the theft;
- (2) The name and signature of the owner or corporate officer;
- (3) The address and telephone number of the owner or corporate officer;
- (4) License plate number of the motor vehicle; and
- (5) Reference to the applicable provisions of this Act.

The law enforcement officer shall respond, in writing, to the owner or corporate officer of the

motor fuel business.

Section 3. That chapter 22-30A be amended by adding thereto a NEW SECTION to read as follows:

A motor fuel retailer may, within thirty days of the occurrence, demand payment from the motor vehicle owner for the motor fuel received by sending a notice by certified mail, return receipt requested. The notice shall be prescribed by the Department of Public Safety and include the following information:

- (1) The name, address, and license plate number of the motor vehicle owner;
- (2) Date the act occurred;
- (3) Type of motor fuel;
- (4) The unpaid dollar amount;
- (5) The service charge;
- (6) A citation of section 1 and 4 of this Act; and
- (7) The employee's and employer's signature.

Section 4. That chapter 22-30A be amended by adding thereto a NEW SECTION to read as follows:

The motor vehicle owner shall pay the motor fuel retailer the full amount due within thirty-three days after receiving notice demanding payment pursuant to section 3 of this Act. The motor vehicle owner may dispute the motor fuel retailer's claim by sending a notice by certified mail, return receipt requested, to the motor fuel retailer within the thirty-three day period. If the motor vehicle owner disputes or fails to pay the retailer's claim, the retailer may take the claim to court. The court may award the retailer the unpaid dollar amount for the motor fuel, the service charge, and reasonable court expenses. If the motor vehicle owner does not dispute the claim and fails to pay the claim within the thirty-three day period, the court may award the retailer the unpaid dollar amount for the

motor fuel, the service charge, and reasonable court expenses.

Section 5. If a motor fuel retailer receives payment or a court award pursuant to this Act, the motor fuel retailer may not initiate or pursue a criminal action against the motor vehicle owner because of that loss.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1157

Chief Clerk
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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1157

File No. _____

Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor
=====

STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State